



CITY OF BERE A

MAYORS OFFICE

BRUCE FRALEY  
MAYOR

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EXECUTIVE ORDER #2019 – 22

**Adoption of Standard Operating Procedures  
For Domestic Violence SOP #8.3**

For the Berea Police Department of the City of Berea, Kentucky

Pursuant to the authority granted in KRS. 83A.130 (4), I hereby approve and adopt by reference standard operating procedures #8.3 Domestic Violence for the Berea Police Department of the City of Berea, Kentucky, as set forth in the attached exhibit to be effective July 1, 2019. A copy of this Executive Order and exhibit shall be filed with the City Clerk.

Signed June 24, 2019

A handwritten signature in cursive script, appearing to read "Bruce Fraley", is written over a horizontal line.

Bruce Fraley, Mayor  
City of Berea, Kentucky

## Berea Police Department

Standard Operating Procedures	SOP Number: 8.3
	Effective Date: 12/05/05
	Prv. Rev. Date: 05/20/13
	Revised Date: 07/01/19
Chapter: Field Operations	Accreditation Standards: KACP 18.5
Subject: Domestic Violence	

### I. PURPOSE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement, addressing domestic violence as a serious crime against society.

The Bereta Police Department's commitment to an interagency response to domestic violence crimes, is largely dependent on the responding officer's initial response to each case. The responding officers report lays the foundation for each subsequent intervenet, and its attention to specific details either helps or hinders each practitioner's efforts to maximize victim safety and offender accountability. The Bereta Police Department's policy emphasizes the importance of accumulating information over time and incidents in order to understand and appropriately respond to the level of danger and risk posed by offenders in a crime that is often complex and difficult to prosecute. When officers treat each call as part of an ongoing case, patterns may likely emerge, and the safety needs of all victims become more evident. This policy shall apply to the respective duties of patrol officers and supervisors in responding to and supervising all cases that involve intimate partners, family or household members.

### II. POLICY

The Bereta Police Department's response to incidents of domestic violence and violations of domestic violence related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' access to appropriate civil remedies (Protective Orders) and community resources whenever feasible and to prioritize victim safety and protection at each stage of its response to a report of domestic violence.

### III. BLUEPRINT FOUNDATIONAL PRINCIPLES

The collaboration of criminal justice agencies within Madison County to develop a coordinated response to domestic violence is the County's *Blueprint for Safety*. The Bereta Police Department, along with all other criminal justice agencies, are committed to

a set of shared foundational principles that maximize safety for victims of domestic violence and holds offenders accountable while offering them opportunities to change. These foundational principles are:

- Adhering to an interagency approach and collective intervention goals;
- Building attention to context and severity of abuse into each intervention;
- Recognition that most domestic violence is a patterned crime requiring continuing engagement with victims and offenders;
- Ensuring sure and swift consequences for continued abuse;
- To ensure we are helping victims and holding offenders accountable;
- Acting in ways that reduce unintended consequences and the disparity of impact on victims and offenders.

The Bereta Police Department shall ensure supervisors participate in ongoing interagency *Blueprint* monitoring, evaluation and maintenance.

### IV. GOOD FAITH IMMUNITY FROM LIABILITY

1. Officers who reasonable perform their duties in good faith have immunity from civil and criminal liability under the following situations:
  - a.) Enforcing Emergency Protective Order or Domestic Violence Orders **KRS 403.485(4).**
  - b.) Enforcing Temporary Interpersonal Protective Orders or Interpersonal Protective Orders **KRS 456.090(4)**
  - c.) Enforcing Foreign Protective Orders. **KRS 403.7521(2)**
  - d.) Making a report or investigation for adult abuse or neglect **KRS 209.050**
  - e.) Making a report or investigation for child dependency, abuse or neglect. **KRS 620.050(1)**

### V. DEFINITIONS

1. **"Domestic Violence and Abuse"** means physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple. **KRS 403.720 (1)**
2. **"Family Member"** means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim. **KRS 403.720(2).**
3. **"Member of an Unmarried Couple"** means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of unmarried couples, who is living together or have formerly lived together. **KRS 403.720(5)**

4. **“Dating Relationship”** means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:

- a) Declarations of romantic interest;
- b) The relationship was characterized by the expectation of affection;
- c) Attendance at social outings together as a couple;
- d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
- e) The length and recency of the relationship; and
- f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed. **KRS 456.010(1)**

5. **“Dating violence and abuse”** means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship. **KRS 456.010(2)**

6. **“Sexual Assault”** refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020. **KRS 456.010(6).**

7. **“Stalking”** refers to conduct prohibited as stalking under KRS 508.140 or 508.150. **KRS 456.010(7)**

8. **“Domestic Disturbance or Dispute Call”** means a call involving an argument or disagreement between family members, unmarried couples, or household members.

9. **“Domestic Violence Call” & “Dating Violence Call”** means a call where an adult, child, or family member or member of an unmarried couple or persons who have been in a dating relationship is alleged to be the victim of:

- (a) Physical injury or fear of imminent physical injury (explicit or implied threats);
- (b) Sexual abuse or in fear of imminent sexual abuse;
- (c) Unlawful imprisonment/kidnapping;
- (d) Property crime;
- (e) Stalking; or,
- (f) Violation of terms or conditions of a protective order by the other party.

10. **“Victim or Complainant”** means any person who has been subjected to threats of or actual domestic and abuse or dating violence and abuse. This includes persons who, at that time, may be reluctant to see the perpetrator.

11. **“Emergency Protective Orders” (“EPO”)** means an ex parte court order (an order issued at the request of one party without a hearing) issued under the provisions of **KRS 403.730** against a family member or a member of an unmarried couple who has been

determined to present an immediate and present danger and which is valid for up to 14 days (the date of expiration should appear on the order).

12. **“Temporary Interpersonal Protective Orders” (“TIPO”)** means an ex parte order (an order issued at the request of one party without a hearing) issued under the provisions of **KRS 456.040** against a person who is or has been in a dating relationship, the alleged perpetrator of sexual assault or stalking (where a relationship may or may not exist between the perpetrator and victim) who has been determined to present an immediate and present danger and which is valid for up to 14 days (the date of expiration should appear on the order).

13. **“Mutual Protection Order”** is an order of protection against both the Petitioner and Respondent only if each has filed a separate petition seeking protection against the other. The order must be specific so as to make clear to any peace officer which party violated the order. **KRS 402.745(4).**

**NOTE:** Out-of-state mutual protection orders are enforceable only if the issuing court has made specific findings that each party in a separate order was entitled to an order of protection.

14. **“Domestic Violence Order” (“DVO”)** means a court order issued under the provisions of **KRS 403.750** following a hearing against a family member or a member of an unmarried couple where the court has found violence has occurred and is likely to occur again. In Kentucky, a “DVO” is valid for up to three years (the date of expiration should appear on the order.)

15. **“Interpersonal Protective Order” (“IPO”)** means a court order issued under the provisions of **KRS 456.060** following a hearing against a person who is or has been in a dating relationship, a victim of sexual assault or stalking where the court has found violence has occurred and is likely to occur again. In Kentucky, an IPO is valid for up to three years (the date of expiration should appear on the order.)

#### **NOTE**

- (a) The officer seeking to enforce the order shall determine that certain conduct has been prohibited on the order form or in the LINK system. He/she cannot assume that any particular provision is in force.
- (b) The officer must also determine whether service or notice of the order has been completed.

16. **“Foreign Protective Order” (“FPO”)** means any judgment, decree, or order of protection issued by a court of any state of the United States or tribal court which is entitled to full faith and credit in this state pursuant to 18 U.S.C. sec 2265. **KRS 403.752(1).** Foreign Protective Orders shall be enforced as written.

**NOTE:** Out-of-state orders may not have an expiration date and may even contain provisions which could not otherwise be issued by Kentucky Court.

17. **“Abuse”** means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury. **KRS 209.020(8).**

18. **“Neglect”** means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare. **KRS 209.020(15).**

19. **“Adult”** means a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunction, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services; or a person without regard to age who is the victim of abuse and neglect inflicted by a spouse. **KRS 209.020(4).**

20. **“Exploitation”** means the improper use of an adult or an adult’s resources by a caretaker or other person for the profit or advantage of the caretaker or other person. **KRS 209.020(8).**

21. **“Abused or Neglected Child”** means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child, inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child’s well-being; a person twenty-one (21) years or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age. The relationship between the adult and juvenile does not have to custodial in nature. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child. **KRS 600.**

22. **“Dependent Child”** means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child. **KRS 600.020 (19).**

23. **“Person Exercising Custodial Control or Supervision”** means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child. **KRS 600.020 (45).**

24. **“Strangle”** means squeeze or constrict the neck of (a person or animal), especially so as to cause death. (dictionary)

25. **“Choke”** means (of a person or animal) have severe difficulty in breathing because of a constricted or obstructed throat or a lack of air. (dictionary)

## VI. PATROL RESPONSE POLICY

In addition to adhering to general agency policy, patrol officers and supervisors will take the following actions in responding to domestic violence-related calls, using the protocols included as part of this policy.

In accordance with Kentucky State Law and for the purposes of this policy, a domestic relationship means spouses and former spouses; parents and children; grandparents and grandchildren; persons who are or have lived together; persons who have a child in common or share a pregnancy regardless of whether they have been married or have lived together at any time; and persons involved in a dating, romantic or sexual relationship. Implement the provisions of this policy in accordance with Protocol 1: Patrol Response to Domestic Violence Related Calls

1. Respond to domestic violence-related calls directly and without delay.
2. Respond with the same protection and sanctions for every domestic violence incident, regardless of race, religion, creed, national origin, gender, sexual orientation, disability and socio-economic status, including cases where any of the alleged parties may be a law enforcement officer, public official, or a prominent citizen.
3. Treat all acts of domestic violence as criminal conduct.
4. Secure the scene and as safety permits and then separate all parties.
5. Conduct a thorough initial investigation to determine if probable cause exists to believe a crime has been committed and identify the suspect.
6. Arrest is the preferred response to domestic violence. Make the arrest decision according to the following requirements and guidelines:
7. Officers shall arrest when:
  - a) A violation of an Emergency Protective Order (EPO), a Domestic Violence Order (DVO), a Temporary Interpersonal Protective Order (TIPO), an Interpersonal Protective Order (IPO), or a Foreign Protective Order (FPO);

- b) If there is probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer. KRS 431.005 (5)

**NOTE:** The charge will be Violations of Conditions of Release (KRS 431.064-Violation Code 01152)

8. The officer may arrest without a warrant when probable cause exists and any of the following conditions are present:
  - a) The alleged assault or incident involves a felony-level crime.
  - b) The victim has signs of injury or impairment.
  - c) A dangerous weapon is involved.
  - d) If the misdemeanor assault charge is a third or subsequent offense within 5 years, the penalty can be enhanced by one degree. The enhancement of the penalty does not require the victim be the same person. KRS 508.032.

#### 9. Other Conditions

- a) In misdemeanor cases without serious injury, an officer may (with supervisor's approval) elect to not arrest when the arrest would require placing children in foster care and there is an alternative for keeping the victim/s safe. The officer shall document the decision not to arrest.
- b) When both parties have used illegal violence, and neither was acting in self-defense, the officer may arrest both parties if during the investigation, they are unable to identify the predominant aggressor.
- c) When an officer believes that there is a compelling public safety issue which requires the arrest of both parties and that both parties pose a significant threat of danger to each other, the officer should arrest both parties.
- d) Be aware of the need to adjust responses when the suspect is a victim of ongoing physical and/or sexual abuse by the victim of this incident.

### VII. PROCEDURES

#### PROTOCOL I: PATROL RESPONSE TO DOMESTIC VIOLENCE RELATED CALLS

##### Initial Approach

1. Respond to domestic calls directly and without delay, utilizing a tactical approach as appropriate to the circumstances of the call.
2. Approach the scene with a high degree of caution.

3. Maximize safety for all involved as officers approach the scene, make initial contact with the occupants, and gain entry to the premises.

##### Securing the Scene

1. Separate the parties.
2. Restrain the suspect if necessary, and/or remove the suspect.
3. Assess for injuries, administer first aid, and request medical services as necessary.
4. Inquire about strangulation and internal injuries.
5. Address victim concerns about the cost of paramedic services by informing them that those services are not billed to the victim unless they require insertion of an IV or medical transport is requested.
6. If injuries appear life-threatening or if the victim is impaired, e.g., through injury or intoxication and unable to make the decision, request medical services regardless of the victim's preference.
7. Determine the whereabouts and identities of all people on the premises, including children.
8. Identify and secure weapons that might pose a threat during the investigation or that might be potential evidence.
9. Separate occupants and witnesses from the victim and accused, keeping them out of sight and hearing range of one another, as safety permits.

##### Initial Investigation

1. Make initial observations and **note spontaneous statements by those at the scene**, including:
  - a. Immediate statements made by victim, suspect or witnesses
  - b. Observations of the crime scene (furniture tipped over; broken phones, doors, other damaged property; torn clothing; blood; no sign of physical altercation, etc.)
  - c. Emotional demeanor of parties at the scene (angry, scared, crying, etc.)
  - d. Physical appearance of parties (disheveled clothing or hair, torn clothing, obvious injury, flushed face, etc.)
  - e. Indications of drug or alcohol use by those at the scene and apparent level of intoxication or impairment (coherent in responding to questions)
2. Obtain a comprehensive account of events by interviewing or talking with each party involved in or a witness to the incident.
  - a. To the extent possible and as safety permits, talk to all parties and witnesses away from sight and hearing range of other parties.
  - b. Arrange for an interpreter, or interpretation services if necessary. (Whenever possible, children should not be used as translators).
  - c. Seek the following information from each party involved in the incident:

- Specific nature of any threats
  - Indications of witness tampering or whether the suspect has threatened the victim if she or he seeks help from law enforcement
  - Manner in which weapons were used
  - Indications of stalking
  - Details and effects about claims of strangulation
  - Indications of self-defense
  - Pain
  - Breathing
  - Impaired movement
  - Emotional state
  - Recent use of alcohol or drugs
  - Relationship to other parties involved, including witnesses
  - Identification, address, and means of locating the person for follow-up
  - Presence and type of firearms and other weapons in the home, regardless of whether a weapon was used in the current incident.
- d. Talk to each witness; document what the witness saw and heard, relationship to the parties involved, date of birth, and a phone number and address to reach the witness.
  - e. Be alert to and probe for indications of sexual aggression or coercion, stalking and/or strangulation.
  - f. Ask the victim if the suspect knows his or her address and phone number(s). If the victim is concerned that the suspect will obtain this information, note that in the report and inform victim that the information has been marked as confidential, but it is nevertheless possible that the suspect could gain access to it.
  - g. Ask victim if there is an alternate contact number that they could provide. This is a number of someone who can always get a safe message to the victim in the event that they do not have phone service.
  3. Obtain information about the history of violence and stalking from the apparent victim by asking the questions contained in the ***Risk Assessment Screen***:
  4. Establish whether the victim has been intimidated about cooperating with law enforcement personnel or courts by asking if the suspect has ever threatened the victim for seeking help from law enforcement/courts or others? If so, obtain details.
  5. Obtain a description of what each witness saw and heard and the witness's name, date of birth, and contact information.
  6. Be attentive to the need for adjusting interventions to protect both the suspect and victim of the incident.
  7. Obtain information from Dispatch using available databases.

### **Establishing Probable Cause**

1. Consider the totality of circumstances when making a probable cause determination. In domestic violence cases, totality of circumstances includes:

- a. Information received from 911
- b. Each party's account of events
- c. All parties' and witnesses accounts
- d. Officer observations which corroborate or negate accounts of events by other parties
- e. Physical evidence
- f. Either party's history
- g. Officer training, experience, and education
2. Attempt to talk with both parties and as many witnesses as practical prior to making a probable cause determination.

### **Arrest Decision**

1. Make an arrest decision according to the conditions specified in K.R.S., including arrests for violations of protection orders or no-contact orders

**Note:** A private prosecution is a criminal proceeding initiated by an individual or instead of by a public prosecutor who represents the state. Kentucky is one of several states that allows a private citizen to initiate criminal cases by filing criminal complaints, although it is up to the prosecutor to decide whether to proceed with the case. Therefore, it is possible for a domestic violence victim to come to a prosecutor's office and ask to initiate a private complaint. If this occurs, the prosecutor should notify the appropriate law enforcement agency, so an investigation can be conducted. Law enforcement should not utilize the allowance of private complaints in Kentucky to shift the burden of investigation or of making an arrest decision to domestic violence victims.

2. **The Department discourages dual arrests.** Utilize this protocol to investigate and make an arrest decision when both parties have used or are alleged to have used violence against the other. In Kentucky, the use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person. **KRS 503.050(1).** A person not engaged in unlawful activity and who is attacked any place he or she has a right to be, has no duty to retreat, and has the right to stand his or her ground, and meet force with force, including deadly force, if he or she reasonably believes it necessary to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force. **KRS 503.055(3).** Where the officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine whether one party acted in self-defense and if not, who was the predominant aggressor. The officer should arrest the predominant aggressor. **Officers should not use mutual arrests as a substitute for a thorough investigation. Arresting both parties is not the preferred response.**
3. Factors to consider when both parties have used violence to determine the predominant aggressor:
  - a) The history of domestic disputes/violence between the parties;



- b) The degree of injury inflicted upon each person keeping in mind that many injuries to the head and body may not be visible at the time;
- c) Objective and testimonial evidence from the parties and other persons at the scene, including children;
- d) The presence of fear of the parties involved and the level of fear (who is afraid of whom); and
- e) The likelihood of future injuries
- f) Assess whether one party acted in self-defense
- g) When both parties have used illegal violence, and neither was acting in self-defense, the officer may arrest both parties if during the investigation, they are unable to identify the predominant aggressor.
- h) The policy allows a dual arrest when an officer believes that there is a compelling public safety issue which requires the arrest of both parties and that both parties pose a significant threat of danger to each other

**NOTE:** An injury inflicted in self-defense is not a basis for an arrest for a violation of a mutual protection order. Determination should be made to identify the initial violator.

- 4. Conduct the arrest swiftly and safely once that decision has been made.
  - a) Search and handcuff the suspect prior to placing him or her in the squad.
- 5. **Make a record of all spontaneous statements by the suspect.**
- 6. After arriving at the jail, ensure the arrest citation is complete and accurate so that the detention center can enter it into the VINE system (Victim Information Notification Everyday).
- 7. Each officer should document on the citation if the victim was transported to the hospital and if evidence was collected.
- 8. Do not attempt to make a custodial interview of a non-English speaking suspect without the assistance of a translator or translation services.

#### **Evidence Collection – General**

- 1. Collect and process all relevant evidence from the scene.
- 2. Photograph injuries and note bruises or other injuries that may require follow-up by investigators.
- 3. Photograph disarray at the scene and any relevant evidence (e.g. broken windows or doors, damage to vehicles, damaged telephones, etc.)
- 4. Photograph, and if possible, collect damaged property such as broken phones, or any other items of evidence that may be of value.
- 5. **NOTE:** Try not to seize a telephone if it is the only working phone available to the victim. (Local advocacy programs may be able to supply cell phones equipped to call 911.)
- 6. Collect electronic evidence such as text messages, email, voicemail, etc. If there is a vast amount of electronic evidence, assistance from an investigator may be required to accomplish this task.

#### **Strangulation – Investigation and Evidence Collection**

- 1. Be alert to the signs and symptoms of strangulation (e.g., raspy/hoarse voice, difficulty breathing, petechiae, difficulty focusing due to loss of oxygen, scratch marks, urinate or defecate, swollen tongue or lips, trouble swallowing, etc.)
- 2. If the victim has any of the symptoms of strangulation, dispatch emergency medical services.
- 3. Conduct an initial interview of the victim regarding the method of strangulation and its signs and symptoms.
- 4. If possible, talk with the suspect before making a probable cause determination. Take caution to not inadvertently arrest a person acting in self-defense.
- 5. Document all evidence of strangulation in the written report.

#### **Stalking – Investigation and Evidence Collection**

- 1. Be alert to the possibility that any single report of domestic abuse could be part of a pattern of stalking behavior. Pay particular attention to repeated violations of protection orders and no contact orders.
- 2. Ask questions of the victim to determine if the current incident is an isolated event or part of a pattern of behavior.
- 3. Be aware of the possibility that actions that would not otherwise be illegal or might not cause alarm in another context could be examples of stalking behavior and respond accordingly. Documentation of such information is paramount when a victim notifies police of such occurrences. Officers should document this information on their MDT if a report is not written. The following should be documented in the CAD system:
  - a) A brief summary (three to four sentences) of the incident.
  - b) Description of the basis for the determination of no probable cause.
  - c) Description of the attempts to locate the parties involved, if applicable.
  - d) Names and dates of birth of the parties involved.

*Example: Victim reports suspect mowed her yard while he/she was at work. Victim reports suspect left cupcakes on his/her porch while he was at the grocery store.*

- 4. If an arrest is made pursuant to probable cause, search the suspect's vehicle, if present, for tools and implements used to commit stalking, kidnapping, or related crimes. If necessary, obtain a search warrant.
- 5. Be alert to the existence of and collect evidence specifically associated with stalking behavior, such as floral deliveries, emails, notes, cards and letters, gifts, and similar evidence.
- 6. Note in the report information the victim has offered regarding previous acts of stalking or harassment for follow-up by the investigator.

## Suspect Gone-on-arrival (GOA)

1. In addition to the initial investigation procedures included in this protocol, obtain the following information when the suspect has left the scene (GOA) prior to patrol officers' arrival:

- a) Suspect's name, date of birth, and physical description, including clothing.
- b) Suspect's direction and mode of travel upon leaving the premises.
- c) Description of the suspect's vehicle, if applicable.
- d) Where the suspect might have gone.
- e) Where the suspect stays when not with the victim.
- f) Whether the suspect has ever interfered with the victim's attempts to seek help, especially from law enforcement.

2. Take the following actions when the suspect has left the scene (GOA) prior to patrol officers' arrival:

- a) Search for the suspect on the premises.
- b) Search for the suspect in the immediate area and the direction and area where the suspect might have fled.
- c) Check with 911 for other addresses where the suspect might be located.
- d) Issue a state wide ATL on the suspect via dispatch (note in report)
- e) Encourage the victim to call 911 if the suspect returns.
- f) Provide information to the victim about the protective order process, advocacy services, and shelter. If appropriate, offer to file a protective order for victim.
- g) If a suspect is GOA and probable cause for arrest exists, it will be the initial officer's responsibility to notify dispatch and ensure a state wide ATL has been sent. The officer shall continue to search for suspect until his/her shift has ended. The officer should notify the on-coming shift supervisor of their intention to arrest the GOA suspect and pass along all pertinent information to ensure the arrest can be made upon locating. If the incident happens on a weekend or holiday, officers will continue to search for suspect until a warrant is obtained on the next business day. If the primary officer is unable to obtain the warrant, a supervisor will assign another officer or investigator to obtain the warrant.
- h) Offer to transport the victim or arrange for transport to shelter or another safe place if needed.
- i) Provide whatever assistance is reasonable to help the victim to secure broken doors or windows.
- j) Collect and process evidence in the same manner as when an arrest has taken place.
- k) Remain at the scene until the officer believes the likelihood of further violence has been eliminated.
- l) After leaving the scene, when possible, drive by the residence over the next few hours and return to look for the suspect.
- m) Prior to clearing the scene, ensure that the victim receives information about victim advocacy services, protection orders and how to request criminal charges.

## Victim Engagement

1. Work in collaboration with victims and provide specific support and attention to safety.

2. Notify BPD Social Service Coordinator on all domestic-related arrests, GOA's or victims who have screened in according to the ***Risk Assessment Screen*** as soon as possible (It is preferred the officer make the referral before clearing the scene or at least immediately after taking the suspect to jail). Provide the advocacy program with the following information:

- a) Case number
- b) Victim's name, address and phone numbers
- c) Suspect's name and date of birth
- d) The charge(s) and whether the suspect was arrested
- e) A brief description of the incident
- f) Any information regarding the victim's needs (e.g., interpreter, medical treatment and facility, need for shelter)

## Children at the Scene

1. Check on the welfare of all minors at the scene and determine:

- a) Names and **dates of birth** of any children present.
- b) Presence and location of any children at the incident
- c) Physical and emotional condition of any children present
- d) Child or children's involvement in the incident, if any

2. Attempt to talk with each child at the scene and explain that the officers are there to help and to make sure everyone is safe. Do so immediately, and privately, if possible.

3. Be aware of how the child is responding to the situation and try to reduce the child's anxiety and fear.

4. Be alert to and document any spontaneous and relevant statements made by a child witness.
5. In general, talk to the child about what she or he saw or heard and determine if the child has been injured or directly harmed.

6. Do not interview a child when information available to the officer suggests that it might be harmful. Document the reasons for not interviewing the child or children in the report.

7. Consider the following in determining whether to interview children:

- a) Child's physical, emotional, or psychological ability to give a statement.
- b) Child's age and ability to understand questions and formulate responses.
- c) Non-offending parent/guardian's preferences as to whether and how to talk with the child or children.

8. Avoid subduing or arresting a party in front of children whenever possible.

- a) If a child witnesses the arrest, talk with the child to provide reassurance that the arrested person will be alright, the child did nothing wrong, the arrest is not their fault, law enforcement is there to help keep everyone safe for the night, and the officer is making the arrest decision.

9. When the actions of the officer result in a situation where no responsible adult will be in the home to care for the children (e.g., dual arrest or a single arrest and the other parent must seek medical treatment), the officer should inquire of the custodial parent if there is someone who can be contacted to care for the children. This information should then be



given to the on-call social service worker to assist them in finding an appropriate placement for the children. (Note: For unmarried or dating couples, officers should attempt to determine if paternity of children has been established).

10. Notify Child Protective Services in accordance with the requirements of **KRS 620.040**, Reporting Maltreatment of a Minor, when any of the following occur:

- a) A child has been injured as a result of an assault.
- b) A child has been sexually abused.
- c) A child has been neglected.
- d) Actions taken by the officer will result in a situation where no responsible adult can be located to care for the child or children.

11. Call for medical assistance or transport the child to the nearest hospital for treatment if a child has been injured and is in need of medical care.

12. BPD Social Services Coordinator will contact Hope's Wings, or any other resources that is needed by victims in providing police services.

#### **Incidents Involving Department Employees**

1. Secure the scene and address the safety needs of those present.
2. Request that a supervisor of higher rank than the officer involved be dispatched to the scene.
3. Under the direction of the on-scene supervisor, conduct a criminal investigation, make an arrest decision, and process evidence in accordance with the policy and this protocol.
4. If the arrestee is an officer from the same agency as the responding officer, the on-scene supervisor shall recover that person's badge, law enforcement identification card, and his or her service weapon.
  - a) If circumstances indicate a high risk of danger (risk assessment), the supervisor should confiscate all weapons at the scene.
  - b) If the suspect is unwilling to allow officers to take possession of the weapon or weapons, badge, and identification card, the on-scene supervisor will notify the Patrol/Operations Commander.
  - c) If the suspect is the chief of police, the assistant chief shall be called to the scene.
5. If the arrestee is an officer employed by an agency other than the responding officer's agency, the on-scene supervisor shall notify the suspect's agency of the arrest.

#### **Incidents Involving Public Figures**

1. A public figure is defined as an elected official, sports figure, television or radio personality, celebrity, or other well-known person.
2. Request that a supervisor be dispatched to the scene.
3. Under the direction of the on-scene supervisor, conduct a criminal investigation, make an arrest decision, and process evidence in accordance with the policy and this protocol.
4. Notify the department's public information officer to prepare for possible inquiries from the media.

5. Take extra precautions to protect the victim's safety and confidentiality, including:

- a) Shield the victim from the media.
- b) Ensure that victim contact information is not included in the report, if so requested by the victim.

#### **CCDW (Carry Concealed Deadly Weapon License)**

1. All law enforcement officers should be aware that pursuant to the Carrying a Concealed Deadly Weapon Statute, "...when a Domestic Violence Order or Emergency Protective Order is issued pursuant to the provision of KRS Chapter 403 against a person holding a license issued under (the law), the holder of the permit shall surrender the license to the court or to the officer serving the order". KRS 237.110(10);

#### **PROTOCOL 2: VICTIM ENGAGEMENT**

1. **Work in collaboration with victims.**

- a) Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
  - b) Be mindful of the complex and often dangerous implications of a victim's cooperation with the legal system.
  - c) Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to "tell all," although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about the offender, the abuse and their situation.
  - d) Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him simply as an information source.
  - e) In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.
2. **Victim engagement guidelines for patrol officers:**  
In responding to domestic violence-related calls, conducting the on-scene investigation, and interacting with victims and suspects, take the following specific actions, as appropriate to the circumstances of the case and victim safety:
    - a) Do not ask the victim if she or he:
      - Wants the suspect arrested
      - Will testify in court
      - Will sign a complaint
    - c) Remain at the scene until the likelihood of further imminent violence has passed.

- d) Recognize that remaining calm and professional even if the victim is upset or hostile will enable officers to obtain better information.
- e) Recognize that the need for assistance may continue beyond the current incident and that the officer's response will influence whether the victim will view law enforcement as a resource for ending the violence in the future.
- f) Reassure the victim that he or she can continue to call law enforcement if necessary. This is especially true for victims that seem hostile to intervention.
- g) Be cognizant of the victim's need for privacy and dignity by allowing her or him to change clothes if needed, shielded from on-lookers.
- h) Obtain a phone number of someone who will always know how to reach the victim and record that number on the Victim Information Form in accordance with department procedure.
- i) Provide victim a copy of the **victim information form** and ensure they understand information about shelter, orders for protection, the VINE System, and other community resources. **KRS 421.500 - 421.576.**
- j) Recognize that for a variety of reasons a victim may appear hostile to officers even if she or he asked for help. If officers are patient and calm in the face of that hostility it will often dissipate over time; that is, initial hostility is likely to dissipate three or four calls later, but probably not five or ten minutes later.
- k) Recognize that victims are most likely to disclose abuse to the responding officer immediately following an assault. Most of the information on lethality and risk will be disclosed at this point in time.
- l) Recognize that the officer's need for specific information may compete with the victim's need to talk on his or her own terms.
- m) Recognize that better information is usually obtained by asking open-ended questions and following up on responses to those questions.
- n) Provide messages of help, reassurance, and protection.

## VIII. Conducting Investigations

In addition to adhering to general department policy, the investigative unit will take the following actions in conducting investigations in domestic violence-related cases, using the protocols and appendices referenced and included as part of this policy.

- 1) Implement the provisions of this policy in accordance with **Protocol 3: Domestic Violence Investigations.**
- 2) The supervisor shall promptly review every domestic violence-related report where an officer has determined that probable cause exists that a crime was committed and assign the case for follow-up investigation; or send the report to the charging attorney with no further investigation.

- 3) In cases where a primary investigation centers on a non-domestic crime but a domestic violence-related crime was also involved in the case, fully investigate the domestic-related crime.
- 4) Conduct investigations supplementing the initial law enforcement investigation at the scene.
- 5) Prioritize investigation of cases where the suspect is gone-on-arrival in the same manner as in-custody cases and take victim safety into account.
- 6) Engage with the victim or victims in a way that prioritizes safety, offers resources, builds collaboration over time, and increases access to services and protection in accordance with **Protocol 2: Victim Engagement Guidelines (page 16-17)**
- 7) If a case that the investigator believes has strong merit is declined by the prosecuting authority, request the specific reason for the decision to decline and explore the possibility of further investigation to support prosecution. If the prosecutor remains reluctant to proceed with the case, discuss it with the investigative unit supervisor for further follow-up.
- 8) In cases where the prosecutor has insufficient evidence to charge the case but believes that further investigation would likely produce enough evidence to charge, the prosecutor will designate the case for release pending further investigation and return the case to the investigator specifying what additional investigation actions should be taken and designating a time period in which to gather the information. If there is still insufficient evidence to charge at the end of the additional investigation period, the prosecutor will decline the case and promptly inform the investigator.
- 9) Be alert for crimes that often occur in domestic violence situations and investigate according to the related training memos; such crimes include:
  - a) Stalking/harassment
  - b) Strangulation
  - c) Sexual coercion and sexual aggression
  - d) Witness tampering
- 10) Conduct all investigations involving department employees and law enforcement personnel as suspects, in accordance with this policy and protocol.
- 11) Conduct all investigations involving a public figure in accordance with this policy and protocol, regardless of the socioeconomic status or prominence of the suspect.
- 12) Determine if the suspect is on probation; if so, notify probation of the circumstances of the case, including any offenses where the suspect left the scene and has not been located.

## Protocol 3: Domestic Violence Investigation

### A. Case Assignment

1. Regardless of whether the offender is in custody or out of custody (GOA), cases with one or more of the following factors will receive the highest priority in case assignment:
  - a. An imminent time deadline before which the suspect must be charged or released
  - b. Significant injury or impairment
  - c. Strangulation or stalking behavior has been alleged
  - d. A victim's response to risk questions indicates significant risk of harm
  - e. A victim expresses fear of imminent bodily harm
2. Cases with one or more of the following factors will receive secondary priority in case assignment:
  - a. Minor injury or no injury, except where the prosecutor has requested an investigation
  - b. No indication of ongoing abuse or victim intimidation by the suspect
3. No follow-up investigation will be assigned on cases involving:
  - a. Misdemeanors where the initial investigation is complete
  - b. Cases without probable cause
4. Cases shall be evaluated for multiple charges.
  - a. The investigative unit supervisor shall evaluate cases for multiple charges, both domestic-related and non-domestic-related.
  - b. If there is the possibility of multiple charges, the investigator will thoroughly investigate all crimes.
5. If it appears that the suspect is a victim of ongoing abuse by the victim of this incident, assign the case to an investigator.

### B. Investigation

1. Identify and obtain contact information (cell phone number, email address, work phone, and or emergency contact number) for witnesses if not included in the incident report.
2. Conduct follow-up interviews with and obtain statements from witnesses, including the person who called 911 and children, if the initial interview was incomplete or missing important information.
3. Apply the following considerations in determining whether to conduct follow-up interviews with children:
  - a. The child's physical, emotional, or psychological ability to give a statement
  - b. The child's age and ability to understand questions and formulate responses

- c. The non-offending parent or guardian's preferences as to whether and how to talk with the children.

4. Arrange for a follow-up interview with the victim.
  - a. Inquire about victim's welfare and safety.
5. Ensure victim was provided with referral information regarding advocacy support, restraining orders, and other community supports.
6. Conduct a thorough interview with the victim that includes attention to:
  - a. Victims account of events surrounding the incident
  - b. The extent to which the victim feels uneasy about providing information to law enforcement and if so, why
  - c. The extent to which the suspect has ever warned the victim about talking with law enforcement or outsiders for help, now or in the past, and the specifics of any threats or warnings
  - d. Initial and continuing treatment of injuries
  - e. Indicators of stalking
7. Conduct the domestic violence risk assessment with the victim
  - a. Review the victim's response to the risk questions included in the patrol report.
  - b. If it appears there is a history of violence, ask follow-up risk questions. Cover the following risk factors and as time allows probe for what the victim thinks are the risks associated with each factor:
    - Does he/she own a gun?
    - Have you left after living together?
    - Does he/she ever try to strangle you?
    - Has he/she ever used a weapon against you or threatened you with a weapon?
    - Has he/she threatened to kill you or himself/herself?
    - Has he/she avoided arrest for domestic violence?
    - Does he/she use drugs? If so, what kind and with what effect?
    - Has he/she ever forced you to have sex when you didn't want to?
    - Does he/she control many of your daily activities (e.g., friendships, whether or when your family can visit, travel)?
    - Is he/she jealous of you?
    - Does he/she follow or spy on you or leave threatening notes or messages?
    - Do you have a child that is not his/hers?
    - Has he/she beaten you when you were pregnant?
    - Has he/she ever threatened or tried to commit suicide?

Is he/she working?

Is he/she an alcoholic or problem-drinker?

8. In the victim interview and risk assessment, probe for details related to:
    - a. Severity and frequency of abuse
    - b. Victim's level of fear
    - c. Isolation
    - d. History of violence (whether or not it resulted in law enforcement contact)
  9. Follow up on any indications or suspicions of strangulation, stalking, witness tampering, or sexual coercion or aggression.
  10. Obtain all necessary medical records.
  11. Run a comprehensive criminal history check and document all history of abuse. The investigator should attempt to obtain the following:
    - a. Past law enforcement reports on the offender
    - b. Past and current protection orders including the Petition and Affidavit portion, and any existing no contact orders issued by a criminal court
    - c. In cases of stalking or increased risk of harm (per risk assessment), law enforcement reports from other jurisdictions within and outside the state
    - d. Past history of calls for service, especially those where police responded, and no report was taken.
  12. Collect all evidence related to the case, including:
    - a. Follow-up photographs of injuries between 24-72 hours in cases where bruises may develop after the initial response
    - b. Any physical evidence not collected by the responding patrol officers.
    - c. Recordings/printouts of relevant voice mail, e-mail, text messages, etc.
  13. If suspect is on probation or parole, contact should be made with the probation/parole office to notify them of the arrest and investigation.
- C. Prosecution Declined cases**
1. When the prosecutor declines a case, but the investigator believes there is merit, he or she should discuss the case with the supervisor. The officer should then contact the prosecutor's office to discuss the reason for declining the case and explore the possibility of further investigation.
  2. If the prosecutor indicates additional investigation might result in charges, continue the investigation as requested by the prosecutor.

3. If the case is finally declined by the prosecutor as a felony and transferred to another prosecuting authority as a misdemeanor, the investigator shall be informed of the transfer and contact the new charging attorney to discuss the case.

**D. Supervisory Responsibilities**

1. Monitor all officer activities and compliance with policy by periodically appearing on the scene and/or conducting case reviews of domestic violence calls and investigations.
2. Review reports for accuracy and completeness.
3. Respond to department employee-involved domestic violence calls by ensuring that a supervisor of higher rank than the involved officer is dispatched to the scene.
4. Ensure that officers receive and are introduced to domestic violence response policies, protocols, and any related material.
5. Assess the on-scene patrol response to domestic violence-related calls, including:
  - a. Skill in securing the scene and managing the immediate crisis
  - b. Skill in obtaining initial information from those at the scene
  - c. Thorough assessment and documentation of probable cause determinations
  - d. Awareness of potential stalking, strangulation, and witness tampering
  - e. Skill and thoroughness in identifying and collecting physical evidence, photographing (or arranging for photographs) of injuries and any other relevant evidence.
  - f. Professional and competent treatment of those at the scene, including victims, children, people with disabilities, older victims
  - g. Prompt referral to advocacy
  - h. Conscientious attention to the security of the victim by making reasonable efforts to secure broken doors or windows, obtain a cell phone to call 911, etc.
  - i. Use the Law Enforcement Report Checklist attached to review daily reports submitted by officers and approve or send back for corrections.
  - j. On a quarterly basis, randomly select two reports of each officer and conduct a thorough review of the reports. If a selected report does not meet policy standards, meet with the officers to provide feedback and guidance. This is not meant as punitive action, the purpose is to correct any mistake for future reporting and policy compliance.

Always be aware that there are other crimes often associated with Domestic Violence. The list below includes but is not limited to some of those crimes.

Assault 1 <sup>st</sup> Degree (KRS 508.010)	
Assault 2 <sup>nd</sup> Degree (KRS 508.020)	
Assault 4 <sup>th</sup> Degree (KRS 508.030)	
Enhanced DV Assault (3 DV Assault Conviction within 5 years (KRS 508.032)	
Violation KY EPO/DVO (KRS 403.763)	Witness Tampering (KRS 524.050)
Violation TIPO/IPO (KRS 456.180)	Intimidating a Participant in Legal Process (KRS524.040)
Violation of Conditions of Release (KRS 431.064)	Cruelty to Animals 1 <sup>st</sup> (KRS 525.125)
	Cruelty to Animals 2 <sup>nd</sup> (KRS 525.130)
Criminal Mischief 1 <sup>st</sup> (KRS 512.020)	Criminal Coercion (KRS 509.080)
Criminal Mischief 2 <sup>nd</sup> (KRS 512.040)	Wanton Endangerment 1 <sup>st</sup> (KRS 508.060)
Criminal Mischief 3 <sup>rd</sup> (KRS 512.050)	Wanton Endangerment 2 <sup>nd</sup> (KRS 508.070)
Harassment (KRS 525.070)	Menacing 1 <sup>st</sup> (KRS 508.050)
Harassing Communications (KRS 525.080)	
Rape 1 <sup>st</sup> (KRS 510.040)	Terroristic Threatening 1 <sup>st</sup> (KRS 508.010)
Rape 2 <sup>nd</sup> (KRS 510.050)	Terroristic Threatening 2 <sup>nd</sup> (KRS 508.078)
Rape 3 <sup>rd</sup> (KRS 510.060)	Burglary 1 <sup>st</sup> (KRS 511.020)
Sex Abuse 1 <sup>st</sup> (KRS 510.110)	Burglary 2 <sup>nd</sup> (KRS 511.030)
Sex Abuse 2 <sup>nd</sup> (KRS 510.120)	Burglary 3 <sup>rd</sup> (KRS 511.040)
Sex Abuse 3 <sup>rd</sup> (KRS 510.130)	Disorderly 1 <sup>st</sup> (KRS 525.055)
Voyeurism (KRS 531.090)	Disorderly 2 <sup>nd</sup> (KRS 525.060)
Video Voyeurism (KRS 531.100)	Unlawful Imprisonment 1 <sup>st</sup> (KRS 509.020)
Theft by Extortion (KRS 514.080)	Unlawful Imprisonment 2 <sup>nd</sup> (KRS 509.030)
Theft of Identity (KRS 514.160)	
Unauthorized Use of Automobile (KRS 514.100)	Kidnapping (KRS 509.040)
Theft by Unlawful Taking (KRS 514.030)	

Unlawful Access to Computer 1<sup>st</sup> (KRS 434.845)  
 Unlawful Access to Computer 2<sup>nd</sup> (KRS 434.850)  
 Unlawful Access to Computer 3<sup>rd</sup> (KRS 434.851)  
 Unlawful Access to Computer 4<sup>th</sup> (KRS 434.853)  
 Stalking 1<sup>st</sup> (KRS 508.140)

Stalking 2<sup>nd</sup> (KRS 508.150)  
 Unlawful Possession of Firearm by a Convicted Felon (KRS 527.040)  
 Assault 4<sup>th</sup> Domestic Violence (KRS